

IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF TEXAS
DALLAS DIVISION

LUCAS HORTON,

Plaintiff,

v.

MED-SENSE GUARANTEED
ASSOCIATION,

Defendants.

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Civil Action No. 3:20-cv-3470

**DEFENDANT MED-SENSE GUARANTEED ASSOCIATION’S
NOTICE OF REMOVAL**

Pursuant to 28 U.S.C. §§ 1331, 1441, and 1446, Defendant Med-Sense Guaranteed Association (“Defendant” or “Med-Sense”) hereby gives notice of the removal of Docket No. JS20-00320D currently pending in the Justice of the Peace Precinct 2, Place 1 of Dallas County, Texas, to the United States District Court for the Northern District of Texas, Dallas Division, and states as follows:

I. THE NATURE OF THIS ACTION

1. The removed case is a civil action that Plaintiff Lucas Horton (“Plaintiff”) filed on November 10, 2020, in the Justice of the Peace Precinct 2, Place 1 of Dallas County, Texas. The case is styled *Lucas Horton v. Med-Sense Guaranteed Association*, Docket No. JS20-00320D (the “State Court Action”). The Complaint expressly alleges federal jurisdiction by way of “28 U.S.C. § 1331 for actions arising under the Telephone Consumer Protection Act, 47 U.S.C. § 227.”

II. REMOVAL IS PROCEDURALLY PROPER

2. Venue for removal is proper in the Northern District of Texas, Dallas Division under 28 U.S.C. § 1441(a) because this district and division embrace the Justice of the Peace Precinct 2, Place 1 of Dallas County, Texas, the forum in which the removed action is pending.

3. This Notice of Removal is timely under the provisions of 28 U.S.C. § 1446(b) because this Notice of Removal is filed prior to the expiration of thirty days from service. Defendant was served with Plaintiff's Complaint on November 12, 2020. Accordingly, this Notice of Removal, being filed on November 23, 2020, is filed prior to the expiration of thirty days from service.

4. This action is not a non-removable action as described under 28 U.S.C. § 1445.

5. Pursuant to 28 U.S.C. § 1446(a), a true and correct copy of the docket and all process and pleadings served as of this date is attached hereto as **Exhibit A**.

6. In accordance with 28 U.S.C. § 1446(d), contemporaneously with the filing of this Notice of Removal, Defendant has served Plaintiff with a copy of this Notice of Removal and has filed a Notice of Filing of Notice of Removal with the Clerk of the Court for Justice of the Peace Precinct 2, Place 1 of Dallas County, Texas. A copy of the Notice of Filing Notice of Removal (without attachments) is attached hereto as **Exhibit B**.

III. THIS COURT HAS FEDERAL QUESTION JURISDICTION

7. This Court has original jurisdiction over the issues of federal law, the Telephone Consumer Protection Act, 47 U.S.C. § 227, raised in Plaintiff's Complaint pursuant to 28 U.S.C. § 1331, and, therefore, it may be removed to this Court under the provisions of 28 U.S.C. § 1441(a) which provides: "[a]ny civil action brought in a State court of which the district courts of the United States have original jurisdiction, may be removed by the defendant or the

defendants, to the district court of the United States for the district and division embracing the place where such action is pending[.]”

8. Nothing in this Notice of Removal should be interpreted as a waiver or relinquishment of Defendant’s rights to assert defenses or objections, including, without limitation, the defenses of (i) lack of jurisdiction over the person, (ii) improper venue and/or *forum non conveniens*, (iii) insufficiency or lack of process or service of process, (iv) improper joinder of claims and/or parties, (v) failure to state a claim, (vi) failure to join an indispensable party(ies), or (vii) any other procedural or substantive defense available under state or federal law.

9. If any question arises as to the propriety of the removal of this action, Defendant requests the opportunity to brief any disputed issues and to present further evidence and oral argument in support of their position that this case was properly removed.

V. CONCLUSION

For the foregoing reasons, Defendant Med-Sense Guaranteed Association hereby removes *Lucas Horton v. Med-Sense Guaranteed Association*, Docket No. JS20-00320D pending in the Justice of the Peace Precinct 2, Place 1 of Dallas County, Texas to this Court under 28 U.S.C. §§ 1331, 1441, and 1446 and requests that further proceedings be conducted in the Dallas Division of the U.S. District Court of the Northern District of Texas as provided by law.

Respectfully Submitted,

GREENBERG TRAURIG, LLP

/s/ Alyssa Ortiz Johnston

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ATTORNEY FOR DEFENDANT MED-
SENSE GUARANTEED ASSOCIATION

CERTIFICATE OF SERVICE

The undersigned hereby certifies that a true and correct copy of the above and foregoing document has been served on this 23rd day of November 2020 on the following counsel via Certified Mail, Return Receipt Requested to the address below:

Lucas Horton
1202 Stratford Dr.
Richardson, Texas 75080
Pro Se

/s/ Alyssa Ortiz Johnston
Alyssa Ortiz Johnston